that he had told IO Chew Khai Chow that it was Chinese medicine and that it was John who arranged for him to carry the packets to Australia. When referred to the evidence of Hoong Bee Huay to the effect that she did not see Yeo Thian Kwee and the accused patronizing the cafe either on 19 or 20 December 1986 the accused suggested that she could be mistaken or that she was quite friendly with Yeo Thian Kwee.

Accordingly, the sole question of fact before us turned on the knowledge of the accused and it was whether he knew he was carrying heroin or whether he believed, as he claimed, that he was merely carrying Chinese medicine to Australia. Having considered the entire evidence, we were left in no doubt that he knew he was carrying heroin. We did not believe him when he claimed that he believed he was merely carrying Chinese medicine. We found that after his arrest he admitted to Sgt John Cheong that he was carrying drugs to Australia and that he was pale and nervous. If he was merely carrying Chinese medicine to Australia he had no reason to be nervous. He also did not mention in his then s 121(6) statement that he believed he was merely carrying Chinese medicine to Australia. In his statement he stated that Yeo Thian Kwee and John never told him 'what was the thing' he was supposed to carry. We did not believe his claim that he had told IO Chew Khai Chow that it was 'John' who arranged for him to carry Chinese medicine to Australia. We found the version of the accused about carrying Chinese medicine to Australia merely to evade tax there quite incredible. We refer to his evidence about the role of Yeo Thian Kwee, particularly the events on the morning of 20 December 1986 at the Race Course Food Centre and their visits to the Hyde Park Cafe. We were convinced he was not telling the truth. In addition to the denial of Yeo Thian Kwee, and the confirmation of Yeo's wife that he was at home that morning, we also accept the evidence of Hoong Bee Huay that the accused, Yeo Thian Kwee and John or any of them did not patronize the Hyde Park Cafe on 20 December 1986 and that the last time the accused and Yeo Thian Kwee patronized the cafe was in November 1986.

Accordingly, we convicted the accused of the offence of attempting to export to Australia the diamorphine in the quantity as charged contrary to s 7 read with s 12 of the Act. We stood down the alternative charge. We sentenced him to death.

Order accordingly.

Solicitors: *Ng Lee & Partners.*

Reported by *Terence Tan Bian Chye*

Louis Vuitton v Lee Thin Tuan

HIGH COURT (SINGAPORE) - SUIT NO 1049 OF 1989
GRIMBERG JC
22 AUGUST 1989

Trade Marks - Infringement of - Interim injunction against person found in possession of infringing items

Civil Procedure - Interim injunction restraining person from infringing trade mark - Order requiring person to set out information concerning receipt and supply of counterfeit items - Order authorizing trade mark owners to store and insure seized counterfeit items

The plaintiffs are registered proprietors of the trade marks 'Louis Vuitton' and 'LV' ('the marks'). They issued a writ against the defendant claiming an injunction against him to restrain him from infringing the marks, and an order for delivery up by the defendant of all goods in the defendant's possession. The plaintiffs also filed a motion claiming an interim injunction to restrain the defendant from infringing the marks, an order requiring him to file an affidavit concerning the receipt and supply of goods bearing the marks, and an order authorizing the plaintiffs to store and insure the articles they had seized from the defendant. The plaintiffs' motion was supported by two affidavits. The first was deposed by private investigators who had attended a search of premises of which the defendant was a joint tenant. The search uncovered a large number of articles bearing the marks. The second affidavit was affirmed by the plaintiffs' store manageress who confirmed that the articles seized were not of the plaintiffs' manufacture. The defendant filed two affidavits in opposition to the plaintiffs' motion. He denied his presence on the premises searched at the time of the search and stated he did not understand the contents of the search warrant shown to him at the search. His second affidavit opposed the granting of an injunction and claimed that the plaintiffs had not shown that they had suffered any damage or that there was a 'likelihood of it recurring'.

Held, granting the orders sought by the plaintiffs:

(1) The fact that the defendant was found in possession of a large quantity of counterfeit goods established, on a balance of probabilities, that he was a supplier of, or a dealer in, the spurious goods. There was thus a serious question to be tried.

(2) The plaintiffs had established a case on the evidence for the orders sought, and it was in the interest of justice that they should be granted prompt relief.

[*Editorial Note*: The defendant has appealed to the Court of Appeal vide Civil Appeal No 79 of 1989.]

Dedar Singh Gill for the plaintiffs.
S Pillai for the defendant.

Cur Adv Vult

Grimberg JC: The plaintiffs are the registered proprietors of the trade mark 'Louis Vuitton' and 'LV' ('the marks'). They issued a writ against the defendant on 1 June 1989 claiming an injunction to restrain him from infringing the marks, and an order for the delivery up by the defendant of all goods in the defendant's possession, the continued retention and/or use of which would be in breach of the injunction prayed for. An appearance was entered on the defendant's behalf of 7 July. On 2 July, the plaintiffs filed a motion claiming:

(i) an interim injunction to restrain the defendant, whether by himself, his servants or agents, from infringing and/or causing, enabling or assisting others to infringe the marks;

(ii) an order requiring the defendant to file an affidavit within 14 days setting out information concerning the receipt and supply of goods bearing the marks; and

(iii) an order authorizing the plaintiffs to store, and insure, articles which they had seized from the defendant in a place of safety.

The plaintiffs' motion was supported by two affidavits, filed together with the motion. The first was by two private investigators familiar with the marks, and under standing instructions from the plaintiffs to conduct raids against any party thought to be infringing them. These investigators attended to the execution of a search warrant at No 20 Phoenix Garden on 15 April 1988. The defendant is a joint tenant of the premises. He was present during the execution of the search warrant. The investigators found 203 handbags, 155 wallets, 14 key cases and five briefcases bearing the marks, under the staircase on the ground floor of the premises. They proceeded to the second level and found nothing. There was a locked room on the third level, and the defendant was requested to unlock it. He said that he did not have the key. The investigators informed the defendant that they were entitled to obtain access to the room by the use of reasonable force, whereupon the defendant produced a key which unlocked the door of the room. In it the investigators found a further 92 handbags and 22 scarves, bearing the marks. The investigators recognized the articles referred to as being counterfeit. They took possession of them and issued the defendant with a receipt.

The second affidavit filed in support of the plaintiffs' motion was affirmed by their store manageress. It gave details of the very substantial sales by the plaintiffs of their products in Singapore and of the efforts made by them to safeguard their goodwill and reputation in regard to the marks. To this end 69 raids were carried out against persons dealing in goods purporting to be those of the plaintiffs in 1988. Up to May 1989, a further 27 raids had been carried out. The deponent was able to confirm that the goods seized at No 20 Phoenix Gardens were not of the plaintiffs' manufacture, and stated her belief that, having regard to the size of the haul, the defendant was likely to be a 'big-time supplier'.

The defendant filed two affidavits in opposition to the plaintiffs' motion. In the first he disputed the identification by the investigators of the goods seized as being counterfeit and denied his presence on the premises when the search warrant was executed, while in the same breath stating that he did not understand the contents of the search warrant which the investigators had shown him during the raid. He denied that goods were found on his premises, but at the same time stated he had no knowledge of the goods 'or their quality'. He denied that goods were found in the room on the third storey, but again stated that he had 'no knowledge of this allegation'.

The defendant's affidavit concluded by stating that he was 'just forced to sign a document in English' (the receipt) which he did not understand and the contents of which were not explained to him, thereby contradicting his earlier statement that he was not present when the warrant was executed. By a second affidavit, sworn and filed on the same day, the defendant opposed the granting of an interim injunction on the grounds, inter alia, that it 'would not be just', that damages would be a proper and adequate remedy, and that 'what the plaintiffs are asking is onerous and unduly inconvenient'. The defendant claimed that the plaintiffs had not shown that they had suffered any damage and that there was 'likelihood of it recurring and continuing'.

The motion came before me on 21 July. The defendant was represented by counsel, who requested an adjournment on the grounds that he wished to respond to an affidavit filed on behalf of the plaintiffs on 19 July and had been unable to do so because of his professional commitments. I declined to grant the defendant an adjournment. The affidavit to which counsel wished to respond was substantially a formal affidavit of the plaintiffs' solicitor exhibiting a certificate of title showing the defendant to be the joint tenant of No 20 Phoenix Garden.

The defendant had been found in possession of, or having custody over, a large quantity of counterfeit merchandise, which established on a balance of probabilities that he was a supplier of, or a dealer in, these spurious goods. There was, therefore, a serious question to be tried, and the balance of convenience in deciding whether or not to grant the injunction lay wholly on the side of the plaintiffs. The other orders prayed for by the plaintiffs were consequential upon the prayer for the interim injunction.

In my view, the plaintiffs had established a case on the evidence for the orders sought by them and it was in the interests of justice that they should be granted prompt relief.

I might have had more sympathy with the application for an adjournment had not the defendant's affidavits been evasive and riddled with prevarication. In the event, I made an order in terms of the plaintiffs' motion, save to the extent of two sub-paragraphs in prayer 2. It is against this order that the defendant now appeals.

Order accordingly.

Solicitors: *Drew & Napier; Patrick Koh & Co.*

Reported by *Terence Tan Bian Chye*